

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LML Patent Corp.

§

Case No. 08-448

Plaintiff,

§

v.

1. JP Morgan Chase & Co.
2. Wells Fargo & Company
3. Wachovia Corp.
4. Citigroup, Inc.
5. Bank of New York Mellon Corp.
6. HSBC Holdings plc
7. Capital One Financial Corp.
8. Marshall & Ilsley Corp.
9. ABN AMRO Holding N.V.
10. Northern Trust Corp.
11. Regions Financial Corp.
12. National City Corp.
13. Fifth Third Bank
14. Citizens Financial Group, Inc.
15. First National of Nebraska, Inc.
16. UnionBanCal Corp.
17. Deutsche Bank Trust Company Americas
18. M&T Bank Corp.
19. PayPal, Inc.

§

Jury Trial Demanded

Defendants.

§

§

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff LML Patent Corp. (“LML”) files this Original Complaint for Patent Infringement.

PARTIES

1. LML is a corporation organized and existing under the laws of Canada with its principle place of business at 1140 West Pender Street, Suite 1680, Vancouver, BC V6E 4G1.

2. JP Morgan Chase & Co. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 270 Park Ave., New York, NY 10017, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

3. Wells Fargo & Company is a corporation organized and existing under the laws of Delaware, with its principal place of business at 420 Montgomery St., San Francisco, CA 94163, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

4. Wachovia Corporation is a corporation organized and existing under the laws of North Carolina, with its principal place of business at 301 South College Street, NC0200, Charlotte, NC 28244-0200, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

5. Citigroup, Inc. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 399 Park Ave., New York, New York 10022, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

6. Bank of New York Mellon Corporation is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1 Wall St., 10th Fl., New York, NY 10286, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

7. HSBC Holdings plc is a corporation organized and existing under the laws of the United Kingdom, with its principal place of business at 8 Canada Sq., London, E14 5HQ, United Kingdom, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

8. Capital One Financial Corporation is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1680 Capital One Dr., McLean, VA 22102-3407, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

9. Marshall & Ilsley Corporation is a corporation organized and existing under the laws of Wisconsin, with its principal place of business at 770 N. Water St., Milwaukee, WI 53202, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

10. ABN AMRO Holding N.V. is a corporation organized and existing under the laws of The Netherlands, with its principal place of business at Gustav Mahlerlaan 10, 1082 PP Amsterdam, The Netherlands, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

11. Northern Trust Corporation is a corporation organized and existing under the laws of Delaware, with its principal place of business at 50 S. La Salle St., Chicago, IL 60603, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

12. Regions Financial Corporation is a corporation organized and existing under the laws of Delaware, with its principal place of business at 417 N. 20th St., Birmingham,

AL 35202, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

13. National City Corporation is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1900 E. 9th St., Cleveland, OH 44114-3484, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

14. Fifth Third Bank is a corporation organized and existing under the laws of Ohio, with its principal place of business at Fifth Third Center, Cincinnati, OH 45263-0001, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

15. Citizens Financial Group, Inc. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1 Citizens Plaza, Providence, RI 02903, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

16. First National of Nebraska, Inc. is a corporation organized and existing under the laws of Nebraska, with its principal place of business at 1620 Dodge St., Omaha, NE 68197-0003, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

17. UnionBanCal Corporation is a corporation organized and existing under the laws of Delaware, with its principal place of business at 400 California St., San Francisco, CA 94104, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

18. Deutsche Bank Trust Company Americas is a corporation organized and existing under the laws of New York, with its principal place of business at 60 Wall St., New York, NY 10005-2836, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

19. M&T Bank Corporation is a corporation organized and existing under the laws of New York, with its principal place of business at 1 M&T Plaza, Buffalo, NY 14203, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

20. PayPal, Inc. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 2211 N. 1st St., San Jose, CA 95131-2021, which is doing business and infringing LML's patents in the Eastern District of Texas and elsewhere in the United States.

JURISDICTION AND VENUE

21. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et seq.*

22. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

23. Defendants have sufficient contacts with the Eastern District of Texas to subject it to the personal jurisdiction of this Court for purposes of this Complaint, including, without limitation, acts of infringement of LML's patents committed by each Defendant within this District.

24. Venue is proper in the Marshall Division of the Eastern District of Texas pursuant to 28 U.S.C. § 1391(b)-(c) and 28 U.S.C. § 1400(b).

GENERAL ALLEGATIONS

25. LML is a subsidiary of LML Payment Corporation, which is a leading provider of electronic payment and risk management and authentication services. LML holds the intellectual property of LML Payment Corporation.

26. LML holds all right, title, and interest in and to United States Patent No. RE 40,220, entitled “Checkwriting Point of Sale System”, (hereinafter “the ‘220 Patent” or the “Patent-in-Suit”). A copy of the ‘220 Patent is attached as Exhibit A to this Complaint.

27. Defendants provide products and services for payment services that fall within one or more claims of the ‘220 Patent.

28. Defendants infringe the Patent-in-Suit directly, contributorily and/or by active inducement by importing, manufacturing, using, marketing, distributing, selling, and/or supporting payment services.

COUNT I **Infringement of the ‘220 Patent**

29. Defendants have infringed and continue to infringe the ‘220 Patent in this District and elsewhere in the United States by their manufacture, importation, sale, offering for sale, and/or use of payment services without authority or license of LML.

30. Defendants have contributorily infringed and/or induced others to infringe and continue to contributorily infringe and/or to induce others to infringe the ‘220 Patent in this District and elsewhere in the United States by their manufacture, importation, sale, offering for sale, and/or use of the payment services without authority or license of LML.

31. Defendants’ acts have caused, and unless restrained and enjoined, will continue to cause, irreparable injury and damage to LML and its affiliates for which there is no

adequate remedy at law. Unless enjoined by this Court, Defendants will continue to infringe the ‘220 Patent.

PRAAYER FOR RELIEF

WHEREFORE, LML requests the following relief:

32. That Defendants and their parents, affiliates, subsidiaries, officers, agents, servants, employees, attorneys, successors, and assigns, and all those persons in active concert or participation with them, or any of them, be enjoined from making, importing, using, offering for sale, selling, or causing to be sold any product or service falling within the scope of any claim of the Patent-in-Suit, or otherwise infringing or contributing to or inducing infringement of any claim of the Patent-in-Suit;
33. That LML be awarded its actual damages;
34. That LML be awarded pre-judgment interest and post-judgment interest at the maximum rate allowed by law;
35. That the Court order an accounting for damages;
36. That the Court declare this to be an exceptional case pursuant to 35 U.S.C. § 285 and award LML its attorneys' fees;
37. That the Court award enhanced damages pursuant to 35 U.S.C. § 284;
38. That the Court award a compulsory future royalty;
39. That LML be awarded costs of court; and
40. That LML be awarded such other and further relief as the Court deems just and proper.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, LML demands a trial by jury on all issues triable of right by a jury.

DATED: November 19, 2008

Respectfully submitted,

/s/

Melissa Smith, Lead Attorney
Texas State Bar No. 00794818
GILLAM & SMITH, LLP
303 South Washington
Marshall, Texas 75670
Tel: 903-934-8450
Fax: 903-934-9257
Melissa@gillamsmithlaw.com

Sam F. Baxter
Texas Bar No. 01938000
McKOOL SMITH, P.C.
505 East Travis Street, Suite 105
Marshall, TX 75670
Telephone: (903) 927-2111
Facsimile: (903) 927-2622

Theodore Stevenson, III
Texas Bar No. 19196650
MCKOOL SMITH, PC
300 Crescent Court, Suite 1500
Dallas, Texas 75201
Telephone: 214-978-4974
Facsimile: 214-978-4044
tstevensom@mckoolsmith.com

Daniel Sharp
Texas Bar No. 24041902
300 W. 6th Street
Suite 1700
Austin , Texas 78701
dsharp@mckoolsmith.com

Of Counsel:
John W. Olivo, Jr.
Ward & Olivo
380 Madison Avenue
New York, NY 10017
212/697-6262
212/972-5866 (fax)
olivoj@wardolivo.com

**ATTORNEYS FOR PLAINTIFF
LML PATENT CORP.**